

San Francisco Bay Conservation and Development Commission

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August 25, 2017

Application Summary

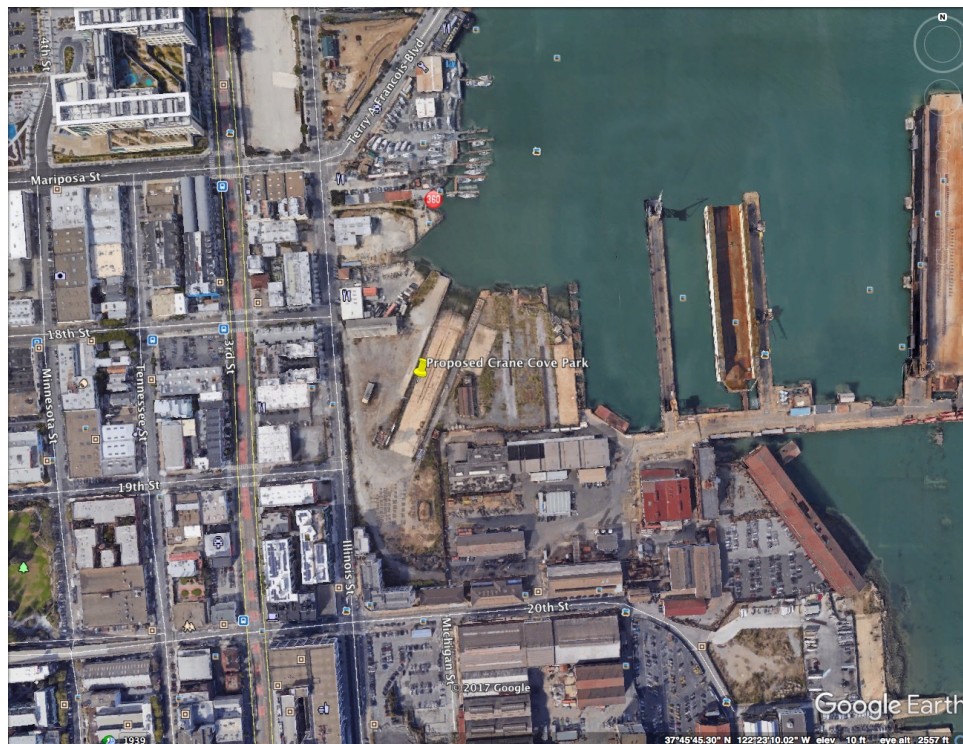
(For Commission consideration on September 7, 2017)

Number: BCDC Permit Application No. 2016.006.00
Date Filed: July 17, 2017
90th Day: October 15, 2017
Staff Assigned: Erik Buehmann (415/352-3645; erik.buehmann@bcdc.ca.gov)

Summary

Applicant: Port of San Francisco (“Port”)

Location: Within the northwest area of the Port of San Francisco’s Pier 70 area, east of Illinois Street, between Mariposa and 19th Streets, in the City and County of San Francisco (Exhibit 1).



Vicinity Map

Project: The proposed project involves the development of an eight-acre area called “Crane Cove Park” at a former industrial site held in the public trust and administered by the Port of San Francisco. Within the Commission’s jurisdiction, the public park would occupy approximately 2.5 acres in the Bay and within the 100-foot shoreline band, including the creation of a sandy beach with a rock riprap shoreline protection system, the placement of a solid cap at a contaminated area in the water, and the installation of various public-serving amenities.

Issues Raised: The Commission staff believes that BCDC Permit Application No. 2016.006.00 raises two primary issues whether: (1) the proposed work in the Bay would be consistent with the McAteer-Petris Act and the *San Francisco Bay Plan* (“Bay Plan”) policies on fill, including safety of fills, shoreline protection, climate change, and natural resources; and (2) the proposed public access improvements and program would be consistent with the McAteer-Petris Act and the Bay Plan policies on public access and recreation.

Project Overview

The Port of San Francisco conducted a multi-year planning process with the goal of redeveloping a total of 69 acres at Pier 70 as a mixed-use district with restored historic buildings and public space, and, at the northeast corner, continuing ship repair operations. The proposed eight-acre Crane Cove Park—2.5 acres within the Commission’s jurisdiction—would be constructed in two phases. Phase I, the subject of this permit application, involves repurposing and restoring former industrial elements including a concrete ship-building slipway known as “Slipway 4,” two vessel cranes, remnant rail tracks, a fence, welding platforms, and, outside of the Commission’s jurisdiction, various buildings (Exhibit 2). A sandy beach with a shoreline protection system would be developed at the site, and gravel and rock material would be placed on contaminated Bay sediment to facilitate in-water access by park visitors. Phase II of the Port’s project, which is located partly in the Commission’s jurisdiction, would involve an expansion of the park to the east and would be the subject of a later permit application to the Commission.

In the Commission’s Bay jurisdiction, the proposed project would involve the removal of 4,500 cubic yards (cy) of solid fill at an 8,500-square-foot area and the placement of approximately 4,455 cy of solid fill at an approximately 31,015-square-foot area, resulting in a net increase of 22,515 square feet of Bay fill and no increase of Bay volume (cubic yards). The majority of the fill would be placed at the Bay bottom to create the containment cap and beach, and the reconfiguration of the shoreline would expand the Bay surface area by approximately 7,398 square feet (Exhibit 6).

In addition, the proposed project would result in the creation of a new public park at the site, including public access. The project would include a new 18-foot-wide Bay Trail segment, a public access beach, an open public lawn, and public plazas. Industrial facilities such as Slipway 4 would be repurposed for public access. The Port also requests authorization for outdoor dining at two locations: a 1,000-square-foot area adjacent to the existing restaurant (“Ramp Restaurant”) and a 1,500-square-foot area adjacent to a proposed café use at Building 49. Within defined public areas located in the Bay and the 100-foot shoreline band also throughout the proposed Crane Cove Park, the Port would also conduct limited special events (i.e., free public events, ticketed public events, and private events) during specific days and times throughout the calendar year (Exhibit 5).

Project Description

Project

Details: The applicant, Port of San Francisco, proposes to develop, use, and maintain a 2.5-acre area within the Commission’s jurisdiction of Crane Cove Park by conducting the following activities:

In the Bay:

1. Remove approximately 4,500 cubic yards (cy) of solid fill within an approximately 8,500-square-foot area to facilitate remediation and reconfiguration of the shoreline;
2. Place, use, and maintain in-kind approximately 780 cy of solid fill (primarily gravel and rock) within an approximately 8,810-square-foot contaminated area to cap contaminated sediment;
3. Place, use, and maintain in-kind approximately 3,250 cy of material at an approximately 19,700-square-foot area to create a sandy beach, and an approximately 180-square-foot universal beach access mat;

4. Install, use, and maintain in-kind an approximately 2,490-square-foot shoreline protection system comprised of approximately 420 cy of rock riprap material;
5. Repair, use, and maintain in-kind an approximately 10,281-square-foot area of Slipway 4;
6. Install, use, and maintain in-kind five security buoys adjacent to the drydock ship repair area, totaling approximately 16 square feet (five cy); and
7. Conduct special events (i.e., free public events such as farmer's markets, ticketed public events such as music festivals, etc.), including set-up, dismantling, and cleaning/maintenance, within half of the public beach (approximately 8,500-square-foot portion) during specific days and times of the year (as discussed herein, see Page 18).

Within the 100-foot shoreline band:

1. Construct, use, and maintain in-kind an approximately 101,055-square-foot (2.32-acre) portion of an approximately 8.4-acre shoreline park ("Crane Cove Park"), including: grading, landscaping (approximately 11,846 square feet), public plazas and terraces (approximately 6,470 square feet), a path system (approximately 15,029 square feet), a public vehicle loading area (approximately 3,200 square feet), a universally-accessible beach mat (approximately 270 square feet), seating, guardrails, picnic tables, and infrastructure (e.g., curbs, utilities, stormwater management facilities, and irrigation);
2. Repair, use and maintain in-kind an approximately 22,830-square-foot area of Slipway 4, by restoring two craneways and associated features (e.g., rails and utility racks), relocating and repairing an approximately 115-foot-tall crane (Crane No. 14), and installing bollards, guardrails, seating, and interpretive facilities;
3. Install, use, and maintain in-kind an approximately 45,970-square-foot shoreline protection system (approximately 3,355 cy of rock riprap material) at the sandy beach;
4. Develop, use, and maintain in-kind an approximately 25,000-square-foot area of a sandy beach;
5. Install, use, and maintain in-kind an approximately 1,000-square-foot outdoor dining area for the Ramp Restaurant and an approximately 1,500-square-foot outdoor dining area adjacent to the public vehicle loading area at Building 49; and
6. Conduct special events (i.e., free public events such as farmer's markets, ticketed public events such as music festivals, etc.), including set-up, dismantling, and cleaning/maintenance, within half of the public beach (an approximately 8,500-square-foot portion), half of the open lawn (approximately 3,500-square-foot portion), an approximately 1,800-square-

foot area of the west craneway and an approximately 1,000-square-foot area at the end of the east craneway, and an approximately 6,000-square-foot area in the center of Slipway 4, during specific days and times of the year (as discussed herein, see Page 18).

Bay Fill: Due to the removal of existing in-water debris and other Bay fill at the site—which would reconfigure the shoreline—and the placement of shoreline protection material, sand for a beach, a thin layer of gravel and rock to cap and cover contaminated sediment at the Bay bottom, the proposed project would result in a net decrease of volume of Bay fill (45 cy) and a net increase in area of fill (approximately 22,515-square-feet), primarily at the bottom of the Bay to construct the contamination cap and beach, as shown in the Table below. No mitigation is proposed to offset the square-foot increase of fill in the Bay, because there is no proposed increase in volume of fill, the fill would result in habitat benefits, and the reconfigured shoreline would increase water surface area by approximately 7,398 square feet.

Fill Totals		
Purpose of Fill	Square Feet	Cubic Yards
Removal of debris and other fill	-8,500	-4,500
Beach Creation	19,700	3,250
Shoreline Protection	2,490	420
Remediation Treatment (i.e., Containment Cap)	8,810	780
Security Buoys	15	5
Sub Total	22,515	-45

Public

Access: The proposed project would create an eight-acre (total) public park, known as Crane Cove Park, including an approximately 111,156-square-foot (2.5-acre) area in the Commission's Bay and 100-foot shoreline band jurisdiction, as shown in table below:

Area	Square Feet (Commission's Jurisdiction)
Beach	44,700
Pathways	15,029
Landscaping	11,846
Plazas and Terraces	6,470
Slipway 4	33,111
Total	111,156 (2.5 acres)

Use

Designation: The project site is not designated as a Priority Use Area in the *San Francisco Bay Plan*, nor addressed in the *San Francisco Waterfront Special Area Plan*.

Schedule

and Cost: Development of the proposed Crane Cove Park (Phase I) is scheduled to begin in 2017. The total project cost is approximately \$31.5 million.

Staff Analysis

Issues Raised: The Commission staff believes that BCDC Permit Application No. 2016.006.00 raises two primary issues whether: (1) the proposed work in the Bay would be consistent with the McAteer-Petris Act and the *San Francisco Bay Plan* (“Bay Plan”) policies on fill, including safety of fills, shoreline protection, climate change, and natural resources; and (2) the proposed public access improvements and program would be consistent with the McAteer-Petris Act and the Bay Plan policies on public access and recreation.

- I. **Fill.** The Commission may allow fill only when it meets the requirements identified in Section 66605 of the McAteer-Petris Act, which state, in part, that: (a) the public benefit of the fill should exceed the public detriment and the fill should be limited to water-oriented uses (such as recreation or public assembly) or be “minor” for improving shoreline appearance and public access; (b) fill should be approved only when “no alternative upland location” is available; (c) fill should be “the minimum amount necessary to achieve the [project] purpose”; (d) “the nature, location, and extent of any fill should be such that it will minimize harmful effects” to the Bay’s resources, e.g., the volume, surface area or circulation of water, water quality, and fertility of marshes; (e) “fill [would] be constructed in accordance with sound safety standards which will afford reasonable protection to persons and property against the hazards of unstable geologic or soil conditions or of flood or storm waters...” and (g) “fill should be authorized when the applicant has such valid title to the properties in question....”
 - A. **Public Benefit v. Detriment and Water-Oriented Use.** The approximately 800-foot-long shoreline at the project site is comprised mainly of debris: deteriorated seawalls, discarded concrete, metal, and asphalt, and a concrete and asphalt pad supported by a substructure of metal drums with wood framing. An investigation conducted by the Port in 2015 determined that existing soil and groundwater contaminants associated with the site’s former industrial use, including metals, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), posed a potential risk to human health under certain settings, including wading and small boat use. Based on public input during the Commission’s Design Review Board (DRB) meetings regarding the proposed project, small recreational boaters, including kayakers, expressed a preference for direct access at the project location because site conditions are less muddy compared to other areas along the San Francisco shoreline; further, the proposed beach would include supporting facilities (e.g., parking and a universally-accessible beach mat) to allow access to persons with disabilities.

The Port commissioned the preparation of a Regional Water Quality Control Board-approved *Feasibility Study and Remedial Action Plan* (“Remediation Plan”, 2015), which concluded that a solid rock and gravel cap should be placed at contaminated areas of the site, including in the Bay and along the shoreline, to create safe conditions for human contact.* The contamination cap is not the subject of an order from the Department of Toxic Substance Control, but rather is a voluntary remediation project proposed by the Port in order to provide water access at the site.

As proposed, existing site debris (4,500 cy of solid fill), including contaminated materials, within an approximately 8,500-square-foot area would be removed. Subsequently, 780 cy of solid material would be placed at an approximately 8,810-square-foot area to cap contaminated sediments that would remain in place at the Bay bottom (Exhibit 6). At an approximately 19,700-square-foot area (3,250 cy), a sandy beach would be constructed. The sandy beach would be built on top of gravel and rock base layers in part to contain underlying remnant contaminants. Approximately 420 cy of solid rock rip rap material within a 2,490-square-foot area would be placed to protect the shoreline from erosion and also to contain remnant contaminants along the shoreline. The Port would reconfigure the shoreline by removing debris from the existing shoreline edge, thereby pulling back the mean high water line and expanding the water surface area of the Bay by approximately 7,398 square feet from existing conditions. At Slipway 4 located adjacent to the beach, the Port would refurbish within a 10,281-square-foot area for park use. Although the work to repair and reuse the Slipway would occur in the Bay, this activity does not constitute new Bay fill as the Slipway is an existing structure in the Bay and the work would not involve complete reconstruction. The project also involves the placement of a universally-accessible beach mat and security buoys in the water to separate beach users from an adjacent drydock.

The McAteer-Petris Act Section 66605 provides that fill should be limited to water-oriented uses, including recreation and public assembly, or minor fill to improve shoreline appearance or public access. The proposed fill, including for contaminant remediation, shoreline protection and improvement, and public access and recreation, meets these criteria by providing for water-oriented recreational use at the site. This area of San Francisco’s waterfront, which is currently deteriorated and comprised of industrial sites, lacks a large public park and opportunities for in-water access. The proposed Crane Cove Park would serve that purpose to visitors of varying interests and abilities. The project would result in a 45-cubic yard net decrease in Bay fill and an approximately 22,515-square-foot increase in area of fill. The majority of the fill would be placed at the Bay bottom. No fill mitigation is proposed.

The public benefits to the project include the establishment of a safe new water access point at this location, a reconstructed shoreline that would facilitate use of the public park, an increased water surface area of the Bay by removing debris and pulling back the shoreline, and incidental habitat benefits from the remediation of contaminated sediments that currently impact foraging fish.

* Report prepared by Langan-Treadwell-Rollo, dated March 31, 2015.

- B. Alternative Upland Location.** The proposed fill activities serve water-oriented uses, including recreation and shoreline protection. The existing deteriorated and contaminated shoreline area requires fill in order to create the proposed public park and ensure safe access to the Bay. According to the subject permit application, the fill associated with the riprap system, beach, and containment cap is designed based on the hydrodynamic conditions of the site to provide erosion protection and ensure public access into the water. The Port explored alternatives to the contamination cap approach in its Remediation Plan (2015). An alternative was analyzed that involved dredging the area to remove the contaminated material. The analysis determined that a cap solution would have been required even after dredging because the material could not be completely removed.

The proposed riprap system is designed to contain contaminants along the shoreline but also stabilize the shoreline and prevent erosion. The Port's 2014 *Coastal Engineering Analysis, Remediation Concept Design and Impact Analysis*[†] found that there is wave action at this area of the shoreline, and wake action is caused by the existing drydock operations. The proposed riprap and beach design was based on this analysis with the goals of designing a beach where the sediment, including any remnant contaminated material, would not erode away due to wave action or be transported to the open water. The advantage of a beach over other forms of access involving fill, e.g., a boat launch or dock, is that the site would allow for swimming, the launching of small human-powered boats, and sunbathing.

- C. Minimum Amount Necessary.** As proposed, the fill to cap contaminants, create a shoreline protection system, and develop a beach totals 4,450 cy of solid material over an approximately 31,000-square-foot area, and varies in size from larger riprap material to smaller cobble, gravel, and sand. The proposed cap, riprap, and beach are designed to contain existing contaminated sediment and, further, to enable human contact with the Bay. The design includes the initial removal of approximately 8,500 square feet of debris (4,500 cy of solid fill) to allow reconfiguration of the shoreline. The project would result in a 45-cubic-yard net decrease in Bay fill and an approximately 22,515-square-foot increase in area of fill, the majority of which would be placed at the Bay bottom.

The Port's Remediation Plan (2015) evaluated three alternatives to protect the public from contaminant contact and to facilitate water access at the site while minimizing fill in the Bay. The "no action" alternative would have not accommodated water access at the site, depriving the public of this unique opportunity along the Bay. The Port's Remediation Plan also analyzed an alternative that involved dredging the contaminated sediment to as much as four feet below the mudline. While dredging would remove most of the contaminants in the area, the study found that complete removal of contaminants in the area would not be possible because some contaminants, such as lead and mercury, are found in higher concentrations at lower depths below the mudline. As a result, the dredging alternative would have required fill in the form of a rock cap in the

[†] "Coastal Engineering Analysis, Remediation Concept Design and Impact Analysis," prepared by Coast & Harbor Engineering, dated November 4, 2014.

dredged footprint to contain the contaminants left over after dredging within the footprint. In addition, the cost of a dredging and capping alternative was much higher than other alternatives, while not providing the level of safety benefits as other alternatives.

Another alternative involved a contamination cap over a layer of treatment material. The capping design, which is the subject of this permit application, uses an “activated carbon hybrid cap” comprised of a carbon-based treatment material (called “Sedimite”) placed atop the contaminated sediment area and held in place by multiple layers of gravel and rock. A variant of the proposed plan involved installing a different treatment material underlying gravel and rock layers. When compared to other options considered, the proposed remediation material placed below the cap is thinner—1.0 to 2.0 inches thick instead of up to one-foot in thickness – treats a wider range of contaminants, ensures greater protection of wildlife, and is less costly. According to the Port, the contamination cap constitutes the minimal fill necessary to provide maximum protection from contaminants at the site.

D. **Effects on Bay Resources.** In addition to Section 66605(d) of the McAtter-Petris Act regarding the impacts of fill on Bay resources, the Bay Plan contains related policies, cited below.

1. **Fish and Wildlife.** The Bay Plan Fish, Other Aquatic Organisms and Wildlife Policy No. 4 states, in part, that “[t]he Commission should consult with the California Department of Fish and [Wildlife] and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service whenever a proposed project may adversely affect an endangered or threatened plant, fish, other aquatic organism or wildlife species... and give appropriate consideration of (their) recommendations in order to avoid possible adverse impacts of a proposed project on fish, other aquatic organisms and wildlife habitat.”

On September 23, 2016, the National Marine Fisheries Service (NMFS) issued a concurrence letter for the proposed project, concluding that it would not likely adversely affect species protected under the federal Endangered Species Act, including anadromous salmonids and green sturgeon. The existing Bay bottom consists of Bay mud and debris remaining from the former use of the site for industrial activities. Further, NMFS determined that contamination at the site likely affects benthic organisms, which serve as food for fish.

NMFS concluded that essential fish habitat for various life stages of fish specified in the Pacific Groundfish Fish Management Plan and the Coastal Pelagic Fish Management Plan would be adversely affected, but the proposed project includes measures to avoid, minimize, mitigate, or offset such effects, including excavating debris along the shoreline at low tide, and limiting in-water work between June 1 and November 30. Further, NMFS determined that the proposed remediation would eliminate contaminated food sources. According to NMFS, benthic organisms would likely reestablish once the proposed construction is complete, but organisms would shift from mud-adapted polychaetes, amphipods, and clams to similar species adapted to sediments associated with the gravel and rock proposed for the contamination cap.

Further, NMFS concluded that nearby fish foraging areas would not be affected by the project and the proposed project would not result in an impact on fish foraging habits. The United States Fish and Wildlife Service and California Department of Fish and Wildlife did not issue any concurrence or other consultation documentation for this project. The Port would monitor the remediation area annually for the first two years and every five years thereafter to identify contaminants and to monitor the integrity of the contamination cap.

2. **Subtidal Areas and Water Surface Area.** The Bay Plan policies on subtidal areas states, in part, “[a]ny proposed filling...project in a subtidal area should be thoroughly evaluated to determine the local and Bay-wide effects of the project on: (a) the possible introduction or spread of invasive species; (b) tidal hydrology and sediment movement; (c) fish, other aquatic organisms and wildlife; (d) aquatic plants; and (e) the Bay's bathymetry. Projects in subtidal areas should be designed to minimize and, if feasible, avoid any harmful effects.” In addition, the Bay Plan policies on water surface area and volume state, in part, “[t]he surface area of the Bay and the total volume of water should be kept as large as possible in order to maximize active oxygen interchange, vigorous circulation, and effective tidal action. Filling and diking that reduce surface area and water volume should therefore be allowed only for purposes providing substantial public benefits and only if there is no reasonable alternative.”

According to the Port's Remediation Plan (2015) and the NMFS concurrence letter dated September 23, 2016, the subtidal area at the site contains contaminated sediment at an over 8,810-square-foot area, which has been determined as harmful to organisms. NMFS concluded that the contamination likely affects benthic organisms, which serve as food for fish. NMFS determined that benthic organisms would likely re-establish once remediation is completed, although the type of organisms would shift from mud-adapted species to species suited to the newly created rock and gravel Bay bottom.

The Port's Coastal Engineering Analysis (2014) concluded that the proposed cap design would have no significant impact on sediment transport or the sedimentation pattern within this area of the Bay. The beach sediments would remain in place if armored by shoreline riprap at the edges, as proposed. The proposed contamination cap would not deprive the system of significant sediment. The Port does not anticipate that the proposed project would magnify the sedimentation rates at the navigation area serving the neighboring drydock and, therefore, not result in future dredging of the facility. Nourishment of the proposed beach would not be necessary. The Port's Coastal Engineering Analysis concluded that the fill associated with the project would not have a significant impact on wave action along the shoreline, taking into consideration boat wake from the dry dock operation to the east.

The removal of existing debris along the shoreline would expand the Bay surface area by approximately 7,398 square feet. The majority of the proposed fill would be located at the Bay bottom, and there would be no net increase in volume of fill because the volume of fill removed would be greater (45 cy) than the volume of fill placed.

3. **Water Quality.** The Bay Plan policies on water quality state, in part, that “[w]ater quality in all parts of the Bay should be maintained at a level that will support and promote the beneficial uses of the Bay as identified in the San Francisco Bay Regional Water Quality Control Board’s (RWQCB) Basin Plan....[and] the policies, recommendations, decisions, advice, and authority of the State Water Resources Control Board and the Regional Board should be the basis for carrying out the Commission’s water quality responsibilities.” Policy No. 3 states, in part, that “[n]ew projects should be sited, designed, constructed, and maintained to prevent or, if prevention is infeasible, to minimize the discharge of pollutants into the Bay by...”

On May 17, 2017, the RWQCB issued a water quality certification for the proposed fill project, including the riprap, beach, and contamination cap, finding that the removal of debris and capping of a contaminated area would improve water quality, reduce risk to human health and safety, and improve the functions and values of aquatic resources. As a result, the RWQCB did not require mitigation for the project.

4. **Mitigation.** BCDC Bay Plan Mitigation Policy No. 1 states, in part, that, “[p]rojects should be designed to avoid adverse environmental impacts to Bay natural resources such as to water surface area, volume, or circulation and to plants, fish, other aquatic organisms and wildlife habitat, subtidal areas, or tidal marshes or tidal flats. Whenever adverse impacts cannot be avoided, they should be minimized to the greatest extent practicable. Finally, measures to compensate for unavoidable adverse impacts to the natural resources of the Bay should be required.”

The Port has not proposed mitigation for the project because it has designed the project to avoid or minimize any adverse environmental impacts to the Bay. There is no net increase in volume of fill because more debris would be removed along the shoreline than the volume of fill placed for the riprap, beach, and containment cap. As a result of the excavation of debris along the shoreline and the restructuring of the shoreline with riprap and a beach, the water surface area of the Bay will increase by approximately 7,398 square feet as a result of the project. The Port’s Coastal Engineering Analysis (2014) concluded that the proposed cap design, riprap, and beach would have no impact on water circulation or sedimentation in the area. According to the Port’s Remediation Plan (2015) and the NMFS concurrence letter dated September 23, 2016, the existing subtidal area at the site contains contaminated sediment, which likely affects benthic organisms used as food for fish. As a result, the remediation of the site with a sediment cap will result in a food supply for fish that is less contaminated once benthic organisms re-establish at the site. The application did not raise any adverse impacts to water surface area, volume, or circulation, or to plants, fish, other aquatic organisms and wildlife habitat, subtidal areas, or tidal marshes or tidal flats. Mitigation was not being required by the

RWQCB or recommended by NMFS because the agencies found that the project improved water quality and habitat values at the site. The United States Fish and Wildlife Service and California Department of Fish and Wildlife did not issue any concurrence or other consultation documentation for this project.

- E. **Sound Safety Standards.** In addition to Section 66605(e) of the McAteer-Petris Act regarding the seismic and flooding standards by which fill is designed and constructed, the Bay Plan contains related policies, cited below. The Bay Plan Safety of Fills Policy No. 1 states, in part, “[t]he Commission has appointed the Engineering Criteria Review Board consisting of geologists, civil engineers specializing in geotechnical and coastal engineering, structural engineers, and architects competent to and adequately empowered to:... establish and revise safety criteria for Bay fills and structures thereon... [and]...review all except minor projects for the adequacy of their specific safety provisions, and make recommendations concerning these provisions....” The Bay Plan Safety of Fills Policy No. 4 states, in part, that “[a]dequate measures should be provided to prevent damage from sea level rise and storm activity that may occur on fill or near the shoreline over the expected life of a project.... New projects on fill or near the shoreline should...be built so the bottom floor level of structures will be above a 100-year flood elevation that takes future sea level rise into account for the expected life of the project.”

Further, the Bay Plan Climate Change Policy No. 2 states, in part: “When planning shoreline areas or designing larger shoreline projects, a risk assessment should be prepared by a qualified engineer and should be based on the estimated 100-year flood elevation that takes into account the best estimates of future sea level rise and current flood protection and planned flood protection that will be funded and constructed when needed to provide protection for the proposed project or shoreline area. A range of sea level rise projections for mid-century and end-of-century based on the best scientific data available should be used in the risk assessment. Inundation maps used for the risk assessment should be prepared under the direction of a qualified engineer. The risk assessment should identify all types of potential flooding, degrees of uncertainty, consequences of defense failure, and risks to existing habitat from proposed flood protection devices.” Climate Change Policy No. 3 state, in part, “[t]o protect public safety and ecosystem services, within areas that a risk assessment determines are vulnerable to future shoreline flooding that threatens public safety, all projects...should be designed to be resilient to a mid-century sea level rise projection.” Climate Change Policy No. 7 states, in part, that until a regional sea level rise adaptation strategy can be completed, the Commission should evaluate each project proposed in vulnerable areas on a case-by-case basis to determine the project’s public benefits, resilience to flooding, and capacity to adapt to climate change impacts. The following specific types of projects have regional benefits, advance regional goals, and should be encouraged, if their regional benefits and their advancement of regional goals outweigh the risk from flooding... [including] a public park.”

The Bay Plan policies on shoreline protection, state, in part: “New shoreline protection projects...should be authorized if: (a) the project is necessary to provide flood or erosion protection for... (b) the type of the protective structure is appropriate for the project site, the uses to be protected, and the erosion and flooding conditions at the site; (c) the project is properly engineered to provide erosion control and flood protection for the expected life of the project based on a 100-year flood event that takes future sea level rise into account; (d) the project is properly designed and constructed to prevent significant impediments to physical and visual public access; and (e) the protection is integrated with current or planned adjacent shoreline protection measures.” In addition, “[r]iprap revetments...should be constructed of properly sized and placed material that meet sound engineering criteria for durability, density, and porosity....”

The Commission’s ECRB did not review the proposed project because the Commission staff determined that the fill did not raise significant seismic safety issues. Further, according to the Port, the proposed fill is designed and would be constructed under the direction of qualified structural and civil engineers to meet current seismic safety standards.

The proposed contamination cap in the subtidal area is designed to ensure the water access from the beach is safe for recreational use. The proposed shoreline revetment system is designed to prevent beach erosion, stabilize the public beach, and contain contaminated sediment. The riprap is designed to slope up to the upland area and connect directly to seawalls located just north of the beach and at Slipway 4. In the 100-foot shoreline band and outside of the Commission's jurisdiction, the Port would reconstruct the grade of the site, including to establish some topography outside of the Commission's jurisdiction. The Port states the riprap would also stabilize this reconstructed shoreline.

The proposed riprap system is designed to be resilient to 22 inches of sea level rise at mean higher high water (MHHW), which would allow the system to be resilient to the year 2065 (Exhibit 7). The riprap is not designed to protect against today’s 100-year storm events. As sea levels rise, even prior to mid-century, the mean higher high water line at the beach would rise incrementally over time. The proposed elevations of the beach and riprap are designed to protect the elevated upland of Crane Cove Park from sea level rise impacts through 2050. The fill associated with the contamination cap is located at the Bay bottom and is designed to be submerged at all times by the tides. Sea level rise impacts to the proposed public access elements involving fill in the Bay are discussed in more detail in the Public Access section below.

- F. **Valid Title.** The project site, including the area located upland of the Bay, is held in the public trust and is administered by the Port of San Francisco.

The Commission should determine whether the proposed project is consistent with the McAteer-Petris sections and relevant San Francisco Bay Plan policies regarding fill in the Bay.

II. Public Access; Recreation; and Appearance, Design and Scenic Views

- A. **McAteer-Petris Act and San Francisco Bay Plan Policies.** In assessing whether the proposed project would provide maximum feasible public access consistent with the proposed activities, the Commission relies on the McAteer-Petris Act, the Bay Plan policies, access requirements of similar previously-permitted projects, and relevant court decisions. When the activity under consideration is proposed by a public agency, such as the Port of San Francisco, the Commission also evaluates whether the proposed public access is reasonable in light of the project scope.

Section 66602 of the McAteer-Petris Act states, in part, that “...existing public access to the shoreline and waters of the...[Bay] is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided.” Section 66632.4 of the McAteer-Petris Act states, “[w]ithin any portion or portions of the shoreline band that are located outside the boundaries of water-oriented priority land uses...the Commission may deny an application for a permit for a proposed project only on the grounds that the project fails to provide maximum feasible public access, consistent with the proposed project, to the bay and its shoreline.”

1. **Public Access Policies.** The Bay Plan policies on Public Access state, in part, that: “[a] proposed fill project should increase public access to the Bay to the maximum extent feasible...”; “[a]ccess to and along the waterfront should be provided by walkways, trails, or other appropriate means and connect to the nearest public thoroughfare where convenient parking or public transportation may be available.”; “the improvements should be designed and built to encourage diverse Bay-related activities and movement to and along the shoreline, should permit barrier free access for persons with disabilities to the maximum feasible extent, should include an ongoing maintenance program, and should be identified with appropriate signs.”; “Public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and shoreline flooding.”; “Any public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding, or equivalent access consistent with the project should be provided nearby,” and “[i]n some areas, a small amount of fill may be allowed if the fill is necessary and is the minimum absolutely required to develop the project in accordance with the Commission's public access requirements.” In addition, Bay Plan Public Access Policy No. 12 states, in part, “[t]he Design Review Board should advise the Commission regarding the adequacy of the public access proposed.”
2. **Recreation Policies.** The Bay Plan policies on Recreation state, in part: “Diverse and accessible water-oriented recreational facilities, such as marinas, launch ramps, beaches, and fishing piers, should be provided to meet the needs of a growing and diversifying population, and should be well distributed around the Bay and improved to accommodate a broad range of water-oriented recreational activities for people of all races, cultures, ages and income levels,” “[a]ccess for non-motorized small boats can be provided at launch ramps, beaches, fishing piers, marinas and waterfront parks, and by providing access through or over shoreline protection

(e.g., ramps or stairs).” In addition, “New beaches should be permitted if the site conditions are suitable for sustaining a beach without excessive beach nourishment”; “[t]o capitalize on the attractiveness of their bayfront location, parks should emphasize hiking, bicycling, riding trails, picnic facilities, swimming, environmental, historical and cultural education and interpretation, viewpoints, beaches, and fishing facilities”; “[b]ecause of the need to increase the recreational opportunities available to Bay Area residents, small amounts of Bay fill may be allowed for waterfront parks and recreational areas that provide substantial public benefits and that cannot be developed without some filling.”

3. **Appearance, Design and Scenic Views Policies.** The Bay Plan policies on Appearance, Design, and Scenic Views state, in part: “[a]ll bayfront development should be designed to enhance the pleasure of the user or viewer of the Bay”; and “[t]owers, bridges, or other structures near or over the Bay should be designed as landmarks that suggest the location of the waterfront when it is not visible, especially in flat areas. But such landmarks should be low enough to assure the continued visual dominance of the hills around the Bay.”

B. Maximum Feasible Public Access

1. **Existing Site Conditions.** A majority of the project site is fenced and inaccessible to the public due to hazardous conditions and the presence of contaminated sediment. The fencing along Illinois Street prevents the public from seeing the shoreline and the Bay. At the northern boundary of the site, an approximately 2,400-square-foot area with picnic tables adjacent to an existing restaurant is available to the general public pursuant to a requirement of BCDP Permit No. M1986.061.09. There is no water access at the project site.
2. **Proposed Waterfront Park.** The proposed Crane Cove Park would provide public access to the Bay and along the shoreline. As proposed, the project would create an approximately 8.4-acre park. Outside of the Commission’s jurisdiction, the park would occupy a total of approximately 5.9 acres. Within the Commission’s Bay and 100-foot shoreline band jurisdiction, the park would occupy an approximately 111,156-square-foot (2.5-acre) area (Exhibit 2). The Port of San Francisco would maintain the park.

The Port proposes to undertake a variety of activities in the Bay to develop the park, including the removal of the debris, the placement of fill to construct a sandy beach, the construction of a riprap shoreline stabilization system, and the placement of a containment cap to remediate contaminated sediments, and the repair and rehabilitation of Slipway 4 as a public amenity.

Within the 100-foot shoreline band, the park would include an open lawn, an 18-foot-wide Bay Trail along the 800-foot-long beach and shoreline, additional public pathways throughout the park, and a vehicle turnaround area for pedestrian drop-off and for use by non-motorized boaters. Public plazas for informal play and seating would be available at the north end of the project site. These amenities are designed to meet universal access criteria and, thus, would be barrier free to

persons with disabilities. Upon its initial opening scheduled for 2018, the Port anticipates approximately 60 visitors per day with an annual visitation of approximately 22,000 people. As the public becomes aware of the proposed park, the Port expects visitor numbers to increase.

A Bay Area Water Trail landing would be installed at the proposed sandy beach. The beach would allow for wading, sunbathing, and launching of human-powered boats. As designed, the beach would be sloped towards the Bay and be composed of sand covering a layer of gravel and rock and bordered by riprap at the north and south ends.

At an upland area located north of the proposed beach, three picnic tables would be installed with one table allowed to be reserved for a single five-hour morning or afternoon period.

Pedestrian and bicycle pathways would provide site access from Illinois Street. A reconstructed 19th street (south and outside of the Commission's jurisdiction) would facilitate circulation to the site, serving as a park entrance, access to the Pier 70 ship repair yard, and the future connection of the Bay Trail to the eastern shoreline of Pier 70 (Exhibit 3).

The Port would reuse historic industrial elements to enhance the park design. The project includes the rehabilitation and repurposing of Slipway 4 as a public amenity. Two existing shipbuilding cranes were originally used for shipbuilding purposes, and would be remain as landmarks. Crane 14, which is currently located at the upland end of the Slipway outside of the Commission's jurisdiction, would be relocated to the Commission's 100-foot shoreline band jurisdiction. There would be a view of Crane 14 down 18th street for several blocks. Crane 30 located outside of the Commission's jurisdiction would be rehabilitated and remain outside of the 100-foot shoreline band. Original rails and utility racks would be repaired and repurposed as interpretive elements and as areas of interest. The center of Slipway 4 would allow for direct access to the Bay.

Building 49 (outside of the Commission's jurisdiction) would be repurposed as an aquatic center with kayak storage, a public restroom, and a café or commercial retail area. The Port proposes to include a private outdoor dining area associated with the proposed café within the 100-foot shoreline band adjacent to the vehicle turn-around. The Port anticipates that the outdoor dining area would accommodate approximately 100 people. At the north end of the Park, the approximately 2,400-square-foot public area currently at the site, adjacent to the existing Ramp Restaurant, would be partially repurposed to a private outdoor dining area for the restaurant within the 100-foot shoreline band jurisdiction. The requirements of the earlier Commission permit for this area would be superseded by this proposed development. The outdoor dining area would seat approximately 65 people. The Port has proposed these areas to activate the park. However, the outdoor dining areas would be adjacent to public access pathways, and could encroach on public

access areas and pathways. To be consistent with the Public Access policies of the Bay Plan, the outdoor dining must be managed to prevent encroachment of outdoor dining areas on public access (Exhibit 5).

Private dining areas adjacent to the public access can encroach upon and limit circulation through public access areas. In addition, the Port proposes special events outside of the 100-foot shoreline band (Exhibit 5). These events could impact the public's use of the shoreline by excluding the public from the special events areas and crowding the public access areas adjacent to the special event areas, thereby inhibiting circulation to and along the shoreline. As a result, the project should ensure that public access amenities within the Commission's Bay and 100-foot shoreline band jurisdiction remain open and useable to the public (Exhibit 4). The Port proposes to maintain limited special events authorized within the public access areas, as discussed below.

3. **Design Review Board.** The project was reviewed by the Commission's Design Review Board (DRB) together with the Port's Waterfront Design Advisory Committee ("WDAC") on five occasions between January 2013 through July 2014. Although joint review by the DRB and WDAC ("advisory boards") is not required in the San Francisco Waterfront Special Area Plan for projects at Pier 70, the Port and Commission staff believed such a process would create a more efficient design process.

At the meeting of January 7, 2013, the advisory boards requested that the Port clarify the impact on the proposed park related to other development proposed at nearby sites outside of the Commission's jurisdiction. The advisory boards also asked that the Port explore design concepts to "pull the site together," reconsider the design of plaza areas, refine treatment of the Bay edge, provide a clear and continuous shoreline path, and maintain the industrial feel of the site. Other issues concerning stormwater treatment, public safety, elevated views from upland areas outside of the Commission's jurisdiction, and potential sea level rise impacts were discussed. Additional information was requested about boating facilities and project phasing.

At the meeting of June 10, 2013, in consideration of a revised project design, the advisory boards requested that the Port address "fragmentation of the design," simplify the design of Slipway 4, emphasize the maritime use and history of the site, and clarify the proposal for the development site (now slated for Phase II of the project).

Subsequent to the June meeting, the Port simplified the overall design, emphasizing the land-water connections and incorporating water overlooks. Also, the Port redesigned the open space adjacent to Slipway 4.

At the meeting of September 9, 2013, the advisory boards expressed concern about the adjacent site proposed for development located outside of the Commission's jurisdiction, and its potential impact on the usability of the proposed Crane Cove Park. In addition, the advisory boards recommended that the Port consider phasing

the project to prioritize development of the northern shoreline area, which includes the beach, lawn, and northern plazas. Consequently, the Port altered the phasing for the Park, moving the proposed development site to be developed in Phase II.

At the meeting of July 14, 2014, the advisory boards expressed support of the revised design of the project which is the subject of this permit application, Phase I. The Board emphasized the need to program the park to promote use by the public, raise public awareness of the facility to enhance its use, and provide safety benefits. However, a special events plan was not reviewed by the Boards.

4. **Special Event Use.** As proposed, the Port would host special events at Crane Cove Park within (and outside of) the Commission's Bay and 100-foot shoreline band jurisdiction (Exhibit 5). Since the park is located at a remote location in a formerly industrial area, it does not experience significant pedestrian traffic or commercial activity that would bring the public to the park. The Design Review Board recommended the Port program the park for events early in its existence to raise awareness of the park and its amenities. The Port proposes the following special events within the Commission's jurisdiction:

Beach: Within an approximately 8,500-square-foot portion of the beach, constituting no more than half of the useable 17,000 square foot area of the beach;

Lawn (west of the beach): Within a 3,500-square-foot portion of the lawn, constituting no more than half of the 7,000 square-foot lawn;

Slipway 4 West Craneway: Within a 1,800-square-foot area at the water's edge of the west craneway;

Slipway 4 East Craneway: Within a 1,000-square-foot portion at the water's edge of the east craneway; and

The Port proposes to conduct special events at the four areas noted above for up to fifty (50) days per calendar year (See Table), including two (2) weekend days per month, pursuant to the following:

- **Non-ticketed Public Events (i.e., events open to the public, such as a farmer's market).** Of the fifty (50) days per calendar year, up to fifty (50) days could be used for non-ticketed public events, including two (2) weekend days per month.
- **Ticketed Public Events (i.e., requires an entry fee or a ticket to attend but generally available to the public, such as a music festival).** Of the fifty (50) days per calendar year used for events, up to twelve (12) days total.
- **Private Slipway 4 Craneway(s) Events (i.e., events closed to the public, such as a wedding).** Of the fifty (50) days per calendar year used for events, up to 12 days at the two craneways located at Shipway 4.
- **Private Lawn Events (i.e., events closed to the public, such as a wedding).** Of the fifty (50) days per calendar year used for events, up to 12 days at the open lawn.

- **Restricted Beach Events.** Of the fifty (50) days per calendar year used for events, up to twelve (12) days could held at the beach, and all beach events would be restricted to water-oriented uses only, e.g., boating or swimming.

Special Events Program			
Number of Special Event Days Out of 50 Calendar Days.	Non-ticketed Public Events	Ticketed Public Events	Private Events
Beach (Water-Oriented Uses Only)	12 of 50 days	12 of 50 days	No private events
Lawn	50 of 50 days	12 of 50 days	12 of 50 days
West Craneway	50 of 50 days	12 of 50 days	12 of 50 days
East Craneway	50 of 50 days	12 of 50 days	12 of 50 days

An event day can include events in all areas. If a private event or ticketed public event occurs within any area, the private event or ticketed public event counts toward the 12-day limitation for that type of event.

The special events at the four areas would be authorized to be conducted without additional plan review approval by, or on behalf of, the Commission. The Port would monitor special events to ensure the special events do not encroach upon public access areas. The Port would report to the Commission on the special events program annually. The proposed special event use and schedule would be for a 5-year duration only until and unless the Port seeks additional consideration by the Commission based on the previous reporting and monitoring of the special events program.

The Port additionally would hold events at an approximately 6,000-square-foot area in the center of Slipway 4. These events would be approved by, or on behalf of, the Commission through plan review. The Port anticipates up to 12 events would take place in the center of Slipway 4 per calendar year (Exhibit 5).

Under the Port's proposal, no special events would encroach upon or diminish the public open and free nature of areas not designated specifically for special events including, but not limited to, the remaining open areas at the beach, lawn, Slipway 4, and public pathways throughout Crane Cove Park including those located outside of the Commission's jurisdiction.

5. **Comparable BCDC-Permitted Projects.** The proposed project is a voluntary park improvement along the San Francisco waterfront and is not a requirement to offset a public access impact resulting from a permitted or planned project. Nevertheless, the Commission must determine whether the proposed activities would provide

maximum feasible public access consistent with the project.[‡] The Commission has previously issued a permit for the construction of India Basin Park (Permit No. 1993.010.03) to the City and County of San Francisco. India Basin Park is similar to the proposed Crane Cove Park in that it involved the restoration of a shoreline through excavation of material and installation of riprap to facilitate access. The India Basin Park project involved approximately 25,000 square feet of fill in the Bay and provided approximately 1,500 linear feet of shoreline access, including approximately 13,748 square feet of pathways and approximately 255,400 square feet of landscaping.

The Commission has approved special events in public access areas operated by the Port in previous permits, using a variety of regulatory mechanisms. BCDC Permit No. M1996.013.03 allows the Port to engage in special events throughout its properties along the San Francisco Waterfront. The permit provides for public markets and special events, including construction of tents and other facilities, for up to 180 days with prior plan review approval by, or on behalf of, the Commission. Since the Crane Cove Park project would have its own special events program, BCDC Permit No. M1996.013.03 would not apply to any permit authorizing Crane Cove park.

At Rincon Park on the San Francisco waterfront, the Commission approved two permits that provide for special events in required public access areas. BCDC Permit No. 2000.06.00, which authorized the park facilities to the northern end of Rincon Park, provides for special events with prior plan review approval by, or on behalf of, the Commission, and does not limit the amount of special events. BCDC Permit No. 2005.004.01, which authorized the construction of two restaurant buildings at Rincon Park, provides for the use of public access space between two outdoor dining areas adjacent to the restaurants for up to five 24-hour events and 15 12-hour events per calendar year, with no events taking up more than two consecutive days. The permit also places limitations on the height of structures erected for events. The permit imposes a reporting schedule for the following year's events, to be approved by, or on behalf of, the Commission, and a notice procedure for when event plans change during the year. These special events differ from the events proposed for Crane Cove Park in that the events at the Rincon Park restaurants involve expanding the private restaurant use into public access, while the majority of Crane Cove Park events would be public events intended to activate the park and increase engagement and familiarity with its amenities and do not involve expansion of a private use into public space.

[‡] The Port has requested that the Commission consider providing a type of credit for development of Crane Cove Park towards a future project(s) requiring a public access benefit to offset a set of impacts unknown at this time. It is possible that "a public access bank" could be recognized in a future San Francisco Waterfront Special Area Plan (SAP) amendment or a MOU between the Port and the Commission, but details of either strategy have yet to be outlined or memorialized.

The Commission authorized special events within a public access area along the San Francisco Waterfront along China Basin in BCDC Permit No. 1976.011.09. The permittee, SPF China Basin Holdings LLC, may close a public access area along the waterfront for up to 30 days a year for private events. The authorization is limited to two years, after which time the permittee reports the previous two years' worth of events and requests an extension for an additional two years.

6. **Sea Level Rise and Flooding.** The proposed shoreline riprap system, the recreational beach, and the park within the 100-foot shoreline band are designed to be resilient to flooding from sea level rise beyond 2050 (Exhibit 7). The public access within the Commission's jurisdiction would be resilient to a projection of 22 inches of sea level rise at Mean Higher High Water, which would make the public access resilient beyond mid-century to approximately 2065. The Port anticipates that access restrictions would be in place at some portions of the park beginning in 2065 and increased maintenance would be required. However, public pathways to the Bay and along the shoreline would exist through the park up to a projected four feet of sea level rise at the end-of-century, providing equivalent public access over the life of the park even when areas closer to the shoreline are flooded.

Areas of the park would flood during a 100-year storm event today. These events are short-term events, usually lasting a few hours, and have a 1% chance of occurring each year. As sea levels rise, a 100-year storm event would flood more area of the park. At the end-of-century sea level rise projection of approximately four feet, a 100-year storm event would flood most of the park and upland areas of the City beyond Illinois Street.

The Commission should determine whether the proposed project is consistent with the McAteer-Petris sections and relevant San Francisco Bay Plan policies regarding Public Access, Recreation, and Appearance, Design, and Scenic Views.

C. Review Boards

1. **Engineering Criteria Review Board.** The ECRB did not review the proposed project because the Commission staff determined that the fill does not raise significant seismic safety issues.
2. **Design Review Board.** The project was reviewed by the Commission's DRB and the Port's Waterfront Design Advisory Committee on five occasions between January 2013 and July 2014, as discussed previously.

- D. **Environmental Review.** On October 5, 2015, the City of San Francisco, as the lead agency, certified that the proposed project was exempt from the requirement to prepare environmental documentation since the project qualified for the Community Plan Categorical Exemption (CEQA Guidelines Section 15183) and is located in the Eastern Neighborhoods Community Plan Area, for which the City's Planning Commission certified the *Eastern Neighborhoods Rezoning and Area Plans Final EIR* (FEIR).[§] The Planning Department determined that the proposed project would not have any

[§] Planning Department Case No.2004.0160E and State Clearinghouse No. 2005032048.

additional or significant adverse effects that had not been examined in the subject FEIR, nor had any new or additional information come to light that would alter the conclusions of the FEIR.

E. Relevant Portions of the McAteer-Petris Act

1. Section 66602
2. Section 66605
3. Section 66632.4

F. Relevant Portions of the San Francisco Bay Plan

1. *San Francisco Bay Plan* Policies on Fish, Other Aquatic Organisms, and Wildlife
2. *San Francisco Bay Plan* Policies on Water Quality
3. *San Francisco Bay Plan* Policies on Subtidal Areas
4. *San Francisco Bay Plan* Policies on Water Surface Area
5. *San Francisco Bay Plan* Policies on Climate Change
6. *San Francisco Bay Plan* Policies on Safety of Fills
7. *San Francisco Bay Plan* Policies on Shoreline Protection
8. *San Francisco Bay Plan* Policies on Mitigation
9. *San Francisco Bay Plan* Policies on Public Access
10. *San Francisco Bay Plan* Policies on Recreation
11. *San Francisco Bay Plan* Policies on Appearance, Design and Scenic Views

Exhibits

1. **Site Location**
2. **Site Plan**
3. **Site Circulation**
4. **Dedicated Public Access**
5. **Special Event Areas & Outdoor Dining Areas**
6. **Bay Fill**
7. **Sea Level Rise Projection**